

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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PETER BEARD STUDIO, LLC.	:	07 Civ. 3184 (LLS)
Plaintiff,	:	DECLARATION OF
v.	:	LUCA GIUSSANI IN
LUCA GIUSSANI and ARNE ZIMMERMAN,	:	SUPPORT OF MOTION TO
Defendants.	:	DISMISS THE COMPLAINT AND
	:	VACATE TEMPORARY
	:	RESTRAINING ORDER

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LUCA GIUSSANI declares as follows:

1. I am a citizen of Italy and a resident Green card holder residing at 305 West Diltido Drive, Miami Beach, FL 33139.

2. Other than a dispute with a contractor over the construction of my home in Miami, I have never been involved with a lawsuit.

Background as an Art Collector

3. My family in Italy has been involved in the art world for generations. My grandmother, Elvezia Balzar, was an important collector of Central European artworks with personal ties to Egon Schiele and others such as Wihilem Thoni, Alfred Kubin and good friend of Peggy Guggenheim in Venice. My uncle, Renato Zevi, was an avid collector with personal ties to Jackson Pollock, David Hockney, Francis Bacon and others. My uncle Renato Zevi was also the owner of Istituto Fratelli Alinari S.p.A. the most important photographic archive on Italian Art, publisher, among others of the "Biblioteca di Disegni" the world-famous most monumental publication of Italian drawings ever made.

4. The first work of my art collection was a gift personally dedicated to me by the famous Italian artist Lucio Fontana when I was four years old.

5. I have lived in a milieu surrounded by art, art collectors and artists. For example, my cousin Aroldo Zevi was a partner in the noted Berggruen & Zevi Gallery in London and my cousin Gianfranco Sanguinetti is a noted Italian philosopher who just published a book in Prague which is a collective work with the late artist Jason Rhodes. My former fiancée Annie Laure Banon is a prominent French sculptor. Many of my friends and social acquaintances such as Achille Bonitoliva are art critics, art experts and art consultants prominent in the contemporary art world.

6. I do not qualify as an official expert, but I have an educated amateur eye and have collaborated with experts. Over the years I have been offered many forgeries and I believe that I have a very good eye and have not gotten "burned" by a forger.

7. In my home I have a modest art library consisting of about 1,000 catalogs and extensive research materials on artwork.

8. I have a modestly extensive art collection that includes a number of works by the artist Peter Beard. In my humble opinion, Mr. Beard is an artist of extraordinary talent and I expect his works, particularly those from the period in which he collaborated with Peter Tunney, to grow significantly in value over the coming years.

#### Professional Background

9. I came to the United States in early 1993 to start Ursus Telecom Corporation. The company quickly became one of the largest re-originator carriers in the United States. I took the company public in 1997 on the NASDAQ National Market with an initial capitalization in excess of USD 100 million. I was the largest shareholder. The Chairman of my Board was

Bill Newport, the former CEO of AT&T Cellular. My outside directors included Vince Cannistraro, former Director of Intelligence Programs for the U.S. National Security Council and Chief of Operations and Analysis at the Central Intelligence Agency (CIA)'s Counterterrorism Center until 1991.

10. Ursus reached a market cap of about USD 500 million. In February 2001, Ursus entered Chapter 11. It converted to a Chapter 7 in 2002. I was Debtor in Possession during the entire process and received no shareholder lawsuits.

8. In 1999, I was extraordinarily busy running a very public U.S. company.

Acquisition of Peter Beard Artwork

9. In 1999, I was approached by Mario DiBenedetto, who presented to me for sale a number of original Peter Beard artworks.

10. I was familiar with Peter Beard's artworks. I don't know Mr. Beard, but we have mutual acquaintances who travel in the art and fashion circles. I was familiar with stories of his wild escapades, which are recounted in the preambles to his books Peter Beard – 50 Years of Portraits (Curated by Peter Tunney 1999) and Stress & Density (Curated By Peter Tunney 1999). I have attached true copies of both books from my library hereto as Exhibits "A" and "B" respectively.

11. In 1997, Peter Beard splashed on the Italian art and fashion scene through an exhibition organized by Fabio Fasolini of Studio FP in Milan. Mr. Fasolini is a longtime friend of mine, and I was familiar with his experiences in assisting Peter Tunney in relaunching Peter Beard onto the fashion scene in Europe. To my understanding, Mr. Fasolini is today Peter Beard's exclusive photographic agent in Europe. I have annexed hereto as Exhibit "C" a true copy of a printout from Studio FP's website showing Peter Beard's name.

12. I was also familiar with stories from direct witnesses of how Peter Beard and Peter Tunney financed their European escapades and lavish lifestyle with bartered Peter Beard artworks. This is an honorable tradition of all great artists and their patrons. It is understandable that Mr. Beard may not have revealed all of these transactions to his wife, and that she might be upset to learn the details of Mr. Beard's adventures in Europe.

13. Prior to purchasing the artworks from Mr. DeBenedetto, I had personally inspected the artworks in question and had familiarized myself with Beard's style, as well as having asked the opinion of others who were familiar with his artworks. I had numerous acquaintances who were familiar with Beard's adventures in Europe and who had been present at the events giving rise to the sales of Mr. Beard's artworks. My understanding was that Mr. Beard and Mr. Tunney had left debts behind with the publisher Rizzoli and various restaurateurs and other service providers and had left the artworks in satisfaction or barter for these debts.

14. My inspection revealed Mr. Tunney's gallery stamp which reads in full:

© Peter Beard c/o The Time is Always Now Inc.  
All rights reserved use of and or reproduction of this  
Image without the expressed written permission of  
Peter Beard or The Time is Always Now Inc. is un.

I have annexed hereto as Exhibit "D" a scan of the copyright notice. The notice is ungrammatical, but it is complete as written by Mr. Tunney. The notice is the same on all Peter Beard works from the period.

15. I was satisfied from my discussions with Mr. DeBenedetto and confirming the circumstances of the transactions that the works had been acquired from Peter Tunney and Peter Beard.

16. In my estimation, and in the estimation of those in the art world, there is simply no such thing as “counterfeit” Peter Beard works. This is true for a very simple reason. Beard’s works are covered in his idiosyncratic style with items from the natural world and would be both too difficult to fake and too easy to hire an expert to verify. For example, Beard often uses bovine blood instead of paint. “Man with Crocodile” has a snakeskin collage – real snakeskin. I have displayed the Peter Beard works continuously in my homes in Milan and Miami from 1999 through the present. During that time, many persons very prominent in the art world have viewed and admired the works.

17. As the introductions to Stress & Density and Peter Beard – 50 Years of Portraits make clear in pointed detail, Peter Beard has embodied the image of an irresponsible playboy who never managed to make any money and who has lived an extravagant and wild lifestyle. I respect Mrs. Beard’s efforts to put some food on the table.

18. Unfortunately, Mrs. Beard’s bitter feud with Peter Tunney and her attempts to sabotage sales of Peter Beard’s works from the Tunney years – in my estimation Peter Beard’s most vibrant creations – are causing damage to collectors such as myself and depressing the market for Beard’s artworks. Trying to sell artworks by slandering the title of others by claiming that anything not sold by you is inferior or inauthentic is dishonest. It is wrong. And it is harmful. Most of all, it is not in the best interest of the artist, his legacy and the place in history that his career merits.

19. It is my sincere hope that Mrs. Beard will see the error of her ways. I am proud of the beautiful and haunting creations of Mr. Beard that I possess. If need be, a parade of experts and witnesses will be produced to authenticate these works. I would prefer to make peace and move ahead.



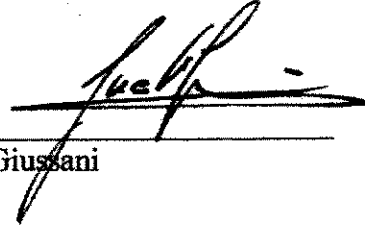
20. I have instructed my attorneys to seek the court's permission to reimburse Mr. Zimmerman the funds that he paid me for "Man with Crocodile". It is unfair that Mr. Zimmerman has been dragged into this affair.

21. I have also instructed my attorneys to offer to the court that the law firm of Dunnington Bartholow & Miller hold the work as custodians for the court for a period that the court finds suitable to ensure that the authenticity of the work is established and the ownership determined before it is transferred. I have no intention of transferring or reselling this work until questions of title and authenticity are settled to my satisfaction and my reputation and the reputation of "Man with Crocodile" is restored.

A handwritten signature in black ink, consisting of several stylized, overlapping strokes.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: Miami, Florida  
April 30, 2007



Luca Giussani